



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

April 27, 2005

**Via Facsimile & First-Class Mail**

(202) 863-8654

Charles R. Spies, Esq.  
c/o Republican National Committee  
310 First Street, S.E.  
Washington, D.C. 20037

RE: MUR 5428  
Republican Party of Arkansas and  
Charles Mazander, as treasurer

Dear Mr. Spies:

On April 25, 2005, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, the Republican Party of Arkansas and Charles Mazander, in his official capacity as treasurer, in settlement of violations of 2 U.S.C. §§ 432(c) and (d), 433(b)(6), 433(c), 434(b)(1), (2) and (4), 434(b)(3)(A), (B), (C), (D) and (G), 434(b)(5)(A), 434(b)(8), 441a(f), and 441b, provisions of the Federal Election Campaign Act of 1971, as amended, and of 11 C.F.R. §§ 102.5(a), 102.9(a), (b) and (c), 104.3(a)(4)(iii)(B), 104.3(b)(3)(i), 104.10(b), 104.11, 106.5(a), and 106.5(g), provisions of the Commission's regulations. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

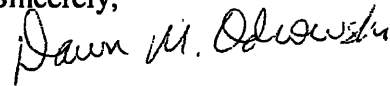
Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that, pursuant to Paragraph VI.1 of the agreement, the first \$130,000 civil penalty installment payment is due on May 10, 2005, the second payment of \$115,000 is due on July 25, 2005 and the third installment of \$115,000 is due on October 24, 2005. Please also note that a report of the findings of the independent compliance audit for calendar 2004 is due on May 25,

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Charles R. Spies, Esq.  
MUR 5428  
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2005 in accordance with Paragraph VI.4 of the agreement. If you have any questions, please contact me at (202) 694-1650.

Sincerely,



Dawn M. Odrowski  
Attorney

Enclosure  
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Republican Party of Arkansas and ) MUR 5428  
Charles Mazander, in his official capacity as treasurer )

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. Based on a Commission audit of the Republican Party of Arkansas ("the RPA" or "the Committee") covering the period of January 1, 1999 through December 31, 2000, the Commission found reason to believe the RPA and its treasurer violated 2 U.S.C. §§ 432(c) and (d), 433(b)(6), 433(c), 434(b)(1), (2) and (4), 434(b)(3)(A), (B), (C), (D) and (G), 434(b)(5)(A), 434(b)(8), 441a(f), 441b, and 11 C.F.R. §§ 102.5(a), 102.9(a), (b) and (c), 104.3(a)(4)(iii)(B), 104.3(b)(3)(i), 104.10(b), 104.11, 106.5(a) and 106.5(g).<sup>1</sup>

NOW THEREFORE, the Commission and the RPA and Charles Mazander, in his official capacity as treasurer (together "Respondents"), having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

<sup>1</sup> All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, all citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of regulations under BCRA.

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II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Republican Party of Arkansas is registered with the Commission as the Republican state party committee in Arkansas and is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Charles Mazander is the current treasurer of the Committee.

Acceptance of Excessive and Prohibited Contributions

3. The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person shall make contributions to an unauthorized political committee in any calendar year, which in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C). Political committees are prohibited from knowingly accepting contributions in excess of the Act's limitations. 2 U.S.C. § 441a(f).

4. Contributions which on their face exceed the contribution limitations, and those which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor, may be either deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If any such contribution is deposited, the treasurer may request reattribution to another contributor in accordance with 11 C.F.R. § 110.1(k).

5. If a reattribution is not received within 60 days of the treasurer's receipt of a contribution, the contribution must be refunded. 11 C.F.R. § 103.3(b). Until such contribution is determined to be legal, it must not be used for any disbursement. Political committees must either establish a separate account in a campaign depository for such contributions or maintain

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sufficient funds to make all such refunds. 11 C.F.R. § 103.3(b)(4). Treasurers shall retain written reattributions signed by each contributor. 11 C.F.R. § 110.1(l)(3). If a written record is not retained, the reattribution shall not be effective. 11 C.F.R. § 110.1(l)(5).

6. Respondents received contributions totaling \$28,500 from six individuals that exceeded the contribution limitation during the 1999-2000 election cycle. These excessive contributions were not reattributed within 60 days nor were they refunded.

7. The Act prohibits a corporation from making any contribution or expenditure, directly or indirectly, in connection with any Federal election. 2 U.S.C. § 441b(a). The term "contribution or expenditure" includes "direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value . . . to any candidate or political committee, or political party or organization in connection with any" Federal election. 2 U.S.C. § 441b(b)(2). Candidates and political committees are prohibited from knowingly accepting or receiving contributions prohibited by the Act. 2 U.S.C. § 441b(a).

8. Respondents accepted prohibited corporate contributions from two contributors totaling \$11,500 during the 1999-2000 election cycle.

#### Reporting and Recordkeeping

9. The treasurer of a political committee is responsible for disclosing the amount of cash on hand at the beginning of the reporting period, and for the reporting period and the calendar year, the total amount of all receipts and all disbursements. 2 U.S.C. §§ 434(b)(1), (2) and (4).

10. Respondents misstated the RPA's receipts, disbursements and cash-on-hand balances for reports covering January 1, 1999 through December 31, 2000.

11. Political committees that are not authorized committees of a Federal candidate are required to disclose the identification of, and the aggregate year-to-date total of contributions

from, each person whose contribution or contributions to the committee aggregate in excess of \$200 per calendar year, together with the receipt date and the amount of each such contribution.

2 U.S.C. § 434(b)(3)(A) and 11 C.F.R. § 104.3(a)(4)(i). For an individual contributor, “identification” means the individual’s name, mailing address, occupation and employer. 2 U.S.C. § 431(13)(A).

12. Political committees must also report the name and address of each person to whom it makes an operating expenditure in an aggregate amount or value in excess of \$200 within a calendar year, together with the date, amount and purpose of the operating expenditure. 2 U.S.C. § 434(b)(5)(A); 11 C.F.R. § 104.3(b)(3)(i). “Purpose” means a brief statement or description of why the disbursement was made. 11 C.F.R. § 104.3(b)(3)(i)(A).

13. Based on the audit, Respondents failed to itemize 21% of the number of contributions received from individuals in excess of \$200 within the calendar years 1999 and 2000.

14. Based on the audit, Respondents failed to correctly report 13% of the number of operating expenditures in excess of \$200 within the calendar years 1999 and 2000.

15. Political committees must also disclose the identification of, and the aggregate year-to-date total received from, the following: each political committee which makes a contribution to the committee during the reporting period, together with the date and amount of each contribution (2 U.S.C. § 434(b)(3)(B) and 11 C.F.R. § 104.3(a)(4)(ii)); each authorized committee which makes a transfer to the committee, together with the date and amount of such transfer (2 U.S.C. § 434(b)(3)(C) and 11 C.F.R. § 104.3(a)(4)(iii)); and each person who provides any dividend, interest, or other receipt in an amount in excess of \$200 within the calendar year, together with the date and amount of such receipt (2 U.S.C. § 434(b)(3)(G) and 11 C.F.R.

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§ 104.3(a)(4)(iv)). "Identification" in the case of persons other than individuals means the full name and address of such person. 2 U.S.C. § 431(13)(B).

16. Respondents failed to itemize eight contributions and other receipts totaling \$30,050 from political committees and one transfer of \$50,000 from an authorized committee.

17. Political party committees must disclose the identification of, and the aggregate year-to-date total received from, any other party committee which makes a transfer to it, regardless of whether they are affiliated with the reporting committee, together with the date and amount of each such transfer. 2 U.S.C. § 434(b)(3)(D) and 11 C.F.R. § 104.3(a)(4)(iii)(B).

18. During the 1999-2000 election cycle, Respondents failed to itemize 16 transfers totaling \$269,721 from the Republican National Committee and the National Republican Congressional Committee and failed to correctly report an additional 18 transfers from these committees totaling \$339,140.

19. The treasurer of a political committee must keep an account of all contributions received by, or on behalf of, the committee. 2 U.S.C. § 432(c). Such an account includes the name and address of any person who makes a contribution in excess of \$50, together with the receipt date and the amount of the contribution. The account must include the full name and address of a political committee that makes a contribution in any amount, and the receipt date and amount of the contribution. A treasurer also must keep an account of the name, mailing address, employer and occupation of any person who makes a contribution aggregating in excess of \$200 during a calendar year, together with the date and amount of each contribution. 2 U.S.C. § 432(c) and 11 C.F.R. § 102.9(a).

20. In addition to recordkeeping requirements for contributions, the committee treasurer must also keep an account of each disbursement made by, or on behalf of, a political committee.

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Specifically, a treasurer must keep an account of the name and address of every person to whom any disbursement is made and the receipt date, the amount and the purpose of the disbursement.

2 U.S.C. § 432(c). If any disbursement is made for a candidate, a record must be kept of the name and office sought by the candidate. *Id.* In addition, for each disbursement in excess of \$200, except a credit card transaction, the treasurer must keep a receipt or invoice from a payee or a cancelled check to the payee. 2 U.S.C. § 432(c) and 11 C.F.R. § 102.9(b)(2).

Documentation for each credit card transaction must include a monthly billing statement or receipt and the cancelled check used to pay the credit card account. 11 C.F.R. § 102.9(b)(2)(ii).

21. In performing recordkeeping duties, a committee treasurer must use his or her “best efforts” to obtain, maintain, and submit the information required for political committees and must keep a complete record of such efforts. 2 U.S.C. § 433(i); 11 C.F.R. § 102.9(d). If a treasurer makes a showing of best efforts, any report or records of the committee are considered to be in compliance with the Act. *Id.* A treasurer will not be deemed to have exercised best efforts in obtaining receipts, invoices or cancelled checks unless he or she has made at least one written effort per transaction to obtain a duplicate copy of the document. 11 C.F.R. § 102.9(d).

22. The committee treasurer must preserve all accounts and records for three years after the disclosure report to which such account or record relates is filed. 2 U.S.C. § 432(d); 11 C.F.R. § 102.9(c).

23. Based on the audit, Respondents failed to keep adequate records for 12% of the number of contributions greater than \$200 received during the 1999-2000 election cycle. Respondents made no showing that “best efforts” were made to obtain or maintain contribution records.

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24. Based on the audit, Respondents failed to keep adequate records for 15% of the number of disbursements made during the 1999-2000 election cycle. Respondents made no showing that "best efforts" were made to obtain or maintain disbursement records.

25. A political committee must disclose the amount and nature of outstanding debts and obligations owed by it until those debts are extinguished. 2 U.S.C. § 438(b)(8) and 11 C.F.R. § 104.11(a). These debts and obligations must be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt or obligation was incurred or extinguished. 11 C.F.R. § 104.11(a). A debt or obligation of \$500 or less shall be reported as of the time the payment is made or not later than 60 days after which it is incurred, whichever comes first. 11 C.F.R. § 104.11(b). A debt or obligation exceeding \$500 shall be reported as of the date on which it is incurred. *Id.*

26. Respondents failed to itemize outstanding debts totaling \$25,322 to eight vendors in the Committee's 2000 Year End Disclosure report.

27. A political committee must file a Statement of Organization that includes a list of all banks, safe deposit boxes or other depositories it uses. 2 U.S.C. § 433(b)(6). A committee shall report any change in this information no later than 10 days after the change by filing an amended Statement of Organization or a letter noting the change. 2 U.S.C. § 433(c); 11 C.F.R. § 102.2(a)(2).

28. Respondents failed to disclose the banks it used during the period of January 1, 1999 through December 31, 2000.

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Use of Impermissible Funds to Pay for Federal Expenses and the Federal Share of Allocable Expenses

29. Party committees that make disbursements in connection with federal and non-federal elections must make those disbursements entirely from funds subject to the prohibitions and limitations of the Act, or from accounts established pursuant to 11 C.F.R. § 102.5. 11 C.F.R. § 106.5(a)(1). If a political committee which finances political activity in connection with both federal and non-federal elections establishes a separate federal account, the account shall be treated as a separate federal political committee which shall comply with the requirements of the Act including registration and reporting. 11 C.F.R. § 102.5(a)(1)(i). Only funds subject to the prohibitions and limitations of the Act shall be deposited in the federal account and all disbursements, contributions, expenditures and transfers in connection with a federal election shall be made from the federal account. *Id.* No transfers may be made to the federal account from any non-federal account except as provided at sections 106.5(g) and 106.6(e). *Id.*

Political committees that have established separate federal and non-federal accounts under 11 C.F.R. § 102.5(a)(1)(i) must allocate expenses between those accounts according to formulas set forth at 11 C.F.R. § 106.5. *Id.*

30. Committees that have established separate federal and non-federal accounts under 11 C.F.R. § 102.5(a)(1)(i) must pay the expenses of joint federal and non-federal activities as follows: (1) pay the entire amount of an allocable expense from its federal account and transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense; or (2) establish a separate allocation account into which funds from its federal and non-federal accounts will be deposited solely for the purpose of paying allocable expenses. 11 C.F.R. § 106.5(g)(1). Once a committee has established a separate allocation

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account for this purpose, all allocable expenses must be paid from this account for as long as the account is maintained. *Id.*

31. Committees that make disbursements in connection with federal and non-federal elections are required to allocate expenses in the following categories: (1) administrative expenses; (2) the direct costs of fundraising programs and events; (3) state and local party activities exempt from the definition of contributions and expenditures at 11 C.F.R. §§ 100.7(b) and 100.8(b); and (4) generic voter drive expenses. 11 C.F.R. § 106.5(a)(2)(i-iv).

Administrative expenses include rent, utilities, office supplies, and salaries, except for such expenses directly attributable to a clearly identified candidate. 11 C.F.R. § 106.5(a)(2)(i).

32. State party committees that have established separate federal and non-federal accounts are required to allocate administrative expenses and the cost of generic voter drives according to the ballot composition ratio. 11 C.F.R. § 106.5(d). Under this method, expenses shall be allocated based on the ratio of federal offices expected on the ballot to total federal and non-federal offices expected on the next general election to be held in the committee's state or geographic areas. 11 C.F.R. § 106.5(d)(1)(i). The ratio shall be determined by the number of categories of federal offices on the ballot and the number of categories of non-federal offices on the ballot, as described in 11 C.F.R. § 106.5(d)(1)(ii). 11 C.F.R. § 106.5(d)(1).

33. Direct fundraising costs shall be allocated according to the funds received method. 11 C.F.R. § 106.5(f).

34. A political party committee that has established separate federal and non-federal accounts under 11 C.F.R. § 102.5(a)(1)(i) shall allocate between those accounts its administrative expenses and its costs for fundraising, exempt activities, and generic voter drives according to 11 C.F.R. § 106.5 and shall report those allocations according to 11 C.F.R. §§ 104.10(b)(1)-(5).

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11 C.F.R. § 104.10(b). Specifically, for allocable administrative expenses and costs of generic voter drives, the committee shall report the allocation ratio and the manner in which it was derived on the first report for the calendar year, and on subsequent reports itemizing allocable disbursements shall include the category of activity and the total amount spent by the federal and non-federal accounts that year, to date, for each category. 11 C.F.R. § 104.10(b)(1). The committee shall also report each transfer of funds from its non-federal account to its federal account or to its separate allocation account for the purpose of paying allocable expenses. 11 C.F.R. § 104.10(b)(3). In addition, the committee shall report each disbursement from its federal account or its separate allocation account in payment for a joint federal and non-federal expense or activity. 11 C.F.R. § 104.10(b)(4).

35. The treasurer shall retain all documents supporting the committee's allocated disbursements for three years in accordance with 11 C.F.R. § 104.14. 11 C.F.R. § 104.10(b)(5).

36. During the period of January 1, 1999 through December 31, 2000, the Committee maintained multiple bank accounts, some governed by the Act ("federal accounts") and others governed by Arkansas state law ("non-federal accounts"). These accounts included: three federal accounts, three state accounts, and two federal allocation accounts established under 11 C.F.R. § 106.5(g). Of these accounts, two were established to pay for coordinated campaign activity: the Victory 2000 federal account and the Victory 2000 non-federal account.

37. Under Arkansas state law, individuals, corporations and labor unions may contribute to up to \$1,000 per election to a state and local candidate or person acting on the candidate's behalf. *See* Ark. Code Ann. §§ 7-6-203(b)(1) and (2) and 7-6-201(12) (Michie 2003). However, Arkansas does not limit contributions by individuals, corporations and labor unions to political parties. *See also* Edward D. Feigenbaum, James A. Palmer, *Campaign Finance Law 2002*, A

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*Summary of State Campaign Finance Laws*, Chart 2A and Ark. Code Ann. Code Ann. § 7-6-201(5) (Michie 2003).

38. In the 1999-2000 election cycle, Respondents used a ballot composition ratio of 25% federal and 75% non-federal. The ballot composition ratio used by Respondents was incorrect in that Respondents improperly included in the non-federal ratio statewide non-partisan judicial races and two additional non-federal offices for partisan local candidates instead of one. The proper ballot composition ratio was 33% federal and 67% non-federal.

39. During the Commission audit, Respondents failed to provide documentation, such as scripts or copies of mailings, establishing that \$2,093,763 in disbursements treated as allocable expenses were made in connection with joint federal and non-federal activities. Of these, \$1,790,852 in disbursements were made to two vendors for media buys and direct mail. Additionally, these disbursements were made directly from federal and state accounts rather than through an allocation account. As a result of the use of an improper ratio and the failure to document disbursements, the Commission determined that Respondents underpaid the federal share of allocable expenses by \$1,576,104.

40. During the Commission audit, Respondents failed to provide documentation establishing that \$335,108 in disbursements from the RPA's non-federal account were made solely in connection with a non-federal election. These disbursements included payments for administrative expenses such as staff bonuses, consulting services, fundraising expenses for an event with a 25% federal component, phone bank services including GOTV calls, travel and hotel expenses related to the Republican National Convention, payments to an authorized committee of a federal candidate and placement of television advertisements. Administrative, generic voter drive, and fundraising expenses must be allocated. Disbursements made in

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connection with a federal election, such as those to a committee of an authorized candidate, must be made with federal funds. In light of the described nature of these disbursements, and as a result of the use of an improper ratio and the failure to document the disbursements, the Commission determined that these disbursements should be treated either as allocable expenses or 100% federal expenses. Accordingly, the Commission determined that Respondents used \$136,037 in non-federal funds to pay for 100% federal expenses and the federal share of allocable expenses.

41. According to the audit and public records, Respondents' non-federal accounts contained federally impermissible funds, including excessive contributions from individuals and corporate contributions. Thus, Respondents used impermissible funds to pay for federal expenses and the federal share of allocable expenses.

42. Respondents failed to pay for expenses of federal activity and joint federal and non-federal activity through its federal allocation account and failed to report or properly report allocable and federal expenses.

43. Respondents made disbursements totaling \$329,581 for legislative advocacy media advertisements that referenced federal candidates, approximately 25% of which was paid directly from a federal account (\$82,395) and 75% from a non-federal account (\$247,186). In Advisory Opinion 1995-25, the Commission stated that legislative media advertisements that focus on national legislative activity and promote a national party should be considered as made in connection with both federal and non-federal elections and their costs allocated on the same basis as administrative or generic voter drive costs pursuant to 11 C.F.R. § 106.5, unless the advertisements qualify as coordinated expenditures on behalf of any general election candidates pursuant to 2 U.S.C. § 441a(d).

44. Using the appropriate ballot composition ratio, Respondents should have paid for the media advertisements by transferring to its federal allocation account from its federal account, 33% of the costs of the advertisements (\$108,762) and from its non-federal account, 67% of the cost of the advertisements (\$220,819). Payments for this joint activity should then have been made from a federal allocation account. Accordingly, Respondents underpaid the federal share of allocable expenses by \$26,367, and in so doing, used impermissible funds to pay for the federal portion of allocable activity. Respondents also incorrectly reported these disbursements.

45. Following the Commission audit and prior to signing this agreement, the Respondents took the following corrective actions: refunded excessive contributions to contributors and a prohibited contribution from a corporate contributor, amended all of the RPA's disclosure reports covering the 2000 election cycle, amended the RPA's Statement of Organization to reflect all banks used by the RPA, sought documentation to establish its treatment of disbursements addressed in Paragraphs 39, 40 and 43 as either allocable or 100% nonfederal, and provided to the Commission information and documentation supporting the RPA's treatment of some of those disbursements.

46. Respondents represent that they have taken the following steps to prevent compliance problems in the future: hired new staff, including a new executive director; appointed new counsel who has attended compliance training and who has overseen the task of bringing the RPA's records up to date; hired a certified public accountant to establish and implement best accounting practices and to prepare FEC reports; and implemented new written financial policies and procedures applicable to the Committee's recordkeeping and handling of receipts and disbursements, including requiring two original signatures on each disbursement check. Additionally, at its state convention in August 2004, the Republican Party of Arkansas approved

new rules establishing budget and audit committees to improve financial controls and accountability.

V. 1. Respondents accepted excessive contributions from six individuals in violation of 2 U.S.C. § 441a(f).

2. Respondents accepted two prohibited corporate contributions in violation of 2 U.S.C. § 441b.

3. Respondents misstated the Committee's 1999 and 2000 financial activity in violation of 2 U.S.C. §§ 434(b)(1), (2) and (4).

4. Respondents failed to maintain records of certain contributions in violation of 2 U.S.C. §§ 432(c) and (d) and 11 C.F.R. §§ 102.9(a) and (c) and failed to maintain records of certain disbursements in violation of 2 U.S.C. §§ 432(c) and (d) and 11 C.F.R. §§ 102.9(b) and (c).

5. Respondents failed to itemize certain contributions from individuals, certain contributions and receipts from political committees and certain transfers from affiliated committees in violation of 2 U.S.C. §§ 434(b)(3)(A), (B), (C), (D), and (G).

6. Respondents failed to correctly report certain operating expenditures in excess of \$200 in violation of 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.3(b)(3)(i).

7. Respondents failed to correctly report certain transfers received from affiliated committees in violation of 2 U.S.C. § 434(b)(3)(D) and 11 C.F.R. § 104.3(a)(4)(iii)(B).

8. Respondents failed to itemize certain outstanding debts and obligations in the Committee's 2000 Year End Report in violation of 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.11.

9. Respondents failed to amend the Committee's Statement of Organization to disclose the bank depositories used by it during the 1999-2000 election cycle in violation of



2 U.S.C. §§ 433(b)(6) and 433(c).

10. Respondents used impermissible funds from its non-federal accounts to pay for federal expenses, or the federal share of allocable expenses, failed to pay for federal and allocable expenses from a federal account, failed to allocate certain expenses, and failed to report, or to correctly report, federal and allocable expenses in violation of 2 U.S.C. §§ 441b, 441a(f) and 434(b)(5)(A) and 11 C.F.R. §§ 102.5(a), 104.10(b), 106.5(a) and 106.5(g).

11. Respondents used impermissible funds from its non-federal accounts to pay part of the federal share of allocable expenses for legislative media advertisements, failed to properly allocate these expenses, failed to pay for these expenses through a federal account, and failed to correctly report them in violation of 2 U.S.C. §§ 441b, 441a(f), 434(b)(5)(A), and 11 C.F.R. §§ 102.5(a), 104.10(b), 106.5(a), and 106.5(g).

VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Three Hundred Sixty Thousand Dollars (\$360,000), pursuant to 2 U.S.C. § 437g(a)(5)(A), such penalty to be paid as follows:

A. One initial payment of \$130,000 due within fifteen (15) days from the date on which the Commission accepts this agreement.

B. A second payment of \$115,000 due within ninety (90) days from the date on which the Commission accepts this agreement.

C. A third and final payment of \$115,000 due within one hundred eighty (180) days from the date on which the Commission accepts this agreement.

D. In the event that any installment payment is not received by the Commission by the date on which it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to

the Respondents. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future overdue installments.

2. Respondents will cease and desist from violating 2 U.S.C. §§ 432(c) and (d), 433(b)(6), 433(c), 434(b)(1), (2) and (4), 434(b)(3)(A), (B), (C), (D) and (G), 434(b)(5)(A), 434(b)(8), 441a(f), 441b, and 11 C.F.R. §§ 102.5(a), 102.9(a), (b) and (c), 104.3(a)(4)(iii)(B), 104.3(b)(3)(i), 104.10(b), 104.11, 106.5(a) and 106.5(g).

3. Respondents will require the Committee treasurer and other appropriate personnel responsible for complying with the Act and Commission regulations to attend a Commission-sponsored training conference for party committees or a comparable legal compliance training program during 2005. Respondents shall submit evidence of registration and attendance at such event.

4. Respondents agree to have an independent accounting or compliance firm conduct a compliance audit of the Committee each calendar year for a five-year period, beginning with calendar year 2004. The scope of the audit shall include an examination of the following:

A. contributions received, including loans, to ascertain whether any contribution is excessive or from a prohibited source;

B. the disclosure of contributions and of disbursements, debts and obligations;

C. disbursements made from all federal and non-federal accounts, including any Levin accounts, to determine whether or not the disbursements must be allocated between federal and non-federal accounts or between federal funds and Levin funds, and if so, to determine whether the appropriate allocation ratio has been used;

D. the disclosure of expenses allocated between federal and non-federal accounts or between federal funds and Levin funds;

E. the consistency between reported figures and bank records; and

F. the completeness of records.

Respondents agree to submit a report of the audit findings to the Commission upon completion of each audit. Respondents will submit the report covering calendar year 2004 within 30 days after the date on which the Commission accepts this agreement. For calendar years 2005-2008, Respondents will submit the report no later than April 1 of the following year. Respondents further agree that the audit report will be certified by an authorized representative of the independent firm and, in the event that person is not a certified public accountant, also by a certified public accountant.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

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oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton  
General Counsel

BY: Rhonda J. Vosdingh  
Rhonda J. Vosdingh  
Associate General Counsel  
for Enforcement

4/27/05  
Date

FOR THE RESPONDENTS:

Charles Mazander  
Charles Mazander  
Treasurer

march 23, 2005  
Date

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